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Counsel for Raymond Silverstein, Trustee of Shaffer, Harrow, Tarte and Roseman Trust

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re)	Chapter 11
)	
CIRCUIT CITY STORES, INC., <i>et al.</i>)	Case No. 08-35653 (KRH)
)	Jointly Administered
Debtors.)	

RESPONSE TO CLAIM OBJECTION
(Liquidating Trust's Fifteenth Omnibus Objection to Landlord Claims)

Raymond Silverstein, Trustee of the Shaffer, Harrow, Tarte and Roseman Trust (the "Claimant"), by counsel, hereby responds to the Liquidating Trust's Fifteenth Omnibus Objection to Landlord Claims (Reduction of Certain Partially Invalid Claims, Reclassification of Certain Misclassified Claims, Disallowance of Certain Invalid Claims, Disallowance of Certain Late Filed Claims, Disallowance of Certain Duplicate Claims, and Disallowance of Certain Amended Claims) (the "Claim Objection") filed by the Circuit City Stores, Inc. Liquidating Trust (the "Trust"), through Alfred H. Siegel, the duly appointed trustee of the Trust, insofar as the Claim Objection concerns that certain proof of claim dated January 13, 2009, filed by the

Claimant and docketed on the claims register as claim number 6645 in the stated claim amount of \$1,530,934.99 (“Claim No. 6645”).

1. Claim No. 6645 (a copy of which is attached hereto as **Exhibit 1**) sets forth a claim against the Circuit City Stores, Inc. (the “Debtor”), based on obligations of the Debtor under that certain the Lease dated as of January 18, 1989 (the “Lease,” a copy of which is attached to Claim No. 6645), by and between the Claimant, as “Landlord,” and the Debtor, as “Tenant,” including damages arising from the Debtor’s rejection of the Lease pursuant to an Order Pursuant to 11 U.S.C. §§ 105(a), 365(a) and 554 and Fed. R. Bankr. P. 6006 Authorizing Rejection of Unexpired Leases of Nonresidential Real property and Abandonment of Personal Property Effective as of the Petition Date (the “Lease Rejection Order”) entered by the Court on or about November 10, 2008.

2. Claim No. 6645 consists of two parts: (a) \$736,934.99 based on rent reserved by the Lease for the remaining term of the Lease, as such rent is limited by 11 U.S.C. § 502(b)(6) (the “Rent Claim”); and (b) \$794,000 in damages based on the Debtor’s failure to perform its’ various maintenance and repair obligations under the Lease (the “Maintenance and Repair Claim”).

3. In the Claim Objection, the Trust identifies Claim No. 6645 as a “Partially Invalid Claim” but does not state any basis for the proposed reduction of Claim No. 6645 from the stated claim amount of \$1,530,934.99 to \$539,346.76. The Claimant understands generally that the Trust disputes some portion of the Rent Claim and the entirety of the Maintenance and Repair Claim.

4. After further consideration of the Rent Claim portion of Claim No. 6645, the Claimant now believes the Rent Claim should be decreased by \$170,135.53, from \$736,934.99 to \$566,799.46, based on the following adjustments:

- a. a \$108,357.00 decrease in future rent from \$541,785.00 to \$433,428.00;
- b. an addition of \$10,835.70 for pre-petition unpaid rent for the period of November 1, 2008, through November 9, 2008;
- c. a \$35,783.78 decrease in real estate taxes from \$133,024.99 to \$97,241.21;
- d. a \$574.86 increase in water from \$4,000.00 to \$4,574.86;
- e. a \$20,420.31 decrease in insurance from \$40,000.00 to \$19,579.69;
- f. a \$2,035.00 decrease in MUA from \$3,000.00 to \$945.00; and
- g. a \$14,950.00 decrease in electric from \$14,950.00 to \$0.00.

5. With respect to the Maintenance and Repair Claim portion of Claim No. 6645, the Claimant now believes that the Maintenance and Repair Claim should be decreased by \$26,001.00 from \$794,000 to \$767,999 based on a more current roof repair estimate. The Claimant has fully and openly shared with the Trust the information attached hereto as Exhibit 6 and Exhibit 7 along with dozens of photographs of the subject property and the damages thereto.

6. Attached hereto are the following documents supporting the Maintenance and Repair Claim portion of Claim No. 6645 in the adjusted amount of **\$1,334,798.46**:

- a. **Exhibit 2** - estimated repairs (excluding roof) of \$634,000.00
- b. **Exhibit 3** - estimated roof repairs of \$133,999.00

7. The Claimant, following the Debtor's rejection of the Lease, undertook to relet the premises in an effort to mitigate its damage claim. The Claimant has arranged for the premises to be continuously listed with commercial real estate brokers, first with Markeim Chalmers, then with N.A. Mertz, and finally (and currently) with Metro Commercial. The premises have been shown but there have been no offers despite the fact that the Claimant has encouraged all of the brokers to present any offers for the premises.

8. The Claimant hereby reserves all of its rights and remedies, including but not limited to the right to further amend Claim No. 6645. In addition, the Claimant hereby reserves the right at any evidentiary hearing concerning Claim No. 6645 to supplement the exhibits attached hereto and to call such witnesses as it deems appropriate, including but not limited to Raymond Silverstein, Trustee, of the Claimant, Jerry Goodman, a representative of the Claimant, and those persons providing maintenance and repair estimates.

WHEREFORE, the Claimant respectfully requests that the Court enter an Order: (1)
allowing Claim No. 6645 as a general unsecured claim in the amount of \$1,334,798.46, and (2)
granting such other relief as is appropriate.

Date: May 1, 2012


By: /s/ William A. Broschious
Counsel

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Counsel for Raymond Silverstein, Trustee of Shaffer, Harrow, Tarte and Roseman Trust

Declaration of Jerry Goodman

I am an agent of Raymond Silverstein, Trustee of the Shaffer, Harrow, Tarte and Roseman Trust, and I declare upon penalty of perjury that the foregoing Response to Claim Objection is true and correct to the best of my knowledge.

Dated: April 30, 2012

Jerry Goodman

WHEREFORE, the Claimant respectfully requests that the Court enter an Order: (1)
allowing Claim No. 6645 as a general unsecured claim in the amount of **\$1,334,798.46**, and (2)
granting such other relief as is appropriate.

Date: _____, 2012

By: /s/ William A. Broschious
Counsel

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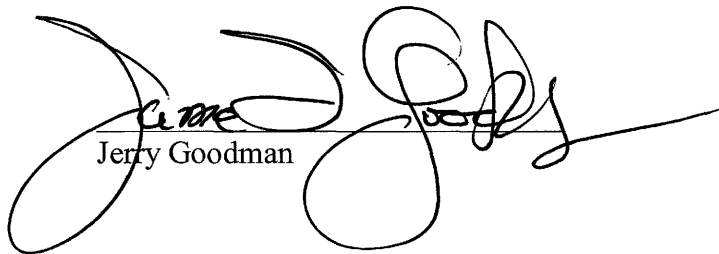
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Dated: April 30, 2012


Jerry Goodman


CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2012, an electronic copy of the foregoing Response to Claim Objection was filed using the Court's ECF System which caused electronic notification of filing to be served on all registered users of the ECF System that have requested such notification in the Circuit City Stores, Inc., *et al.* bankruptcy proceeding. In addition, a copy of the foregoing Response to Claim Objection was sent by email to the following persons:

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